Supreme Court of the United States

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1. The value of the property taken should be determined as of a date as early as 1954, or even prior thereto, and certainly as early as August 18, 1955, when the Planning Board held its public meeting, or by September 1, 1955, when the City of Trenton, by its Resolution No. A3971, designated the so-called Coalport Area as a blighted area, and the Court's rulings adverse thereto and the fixing of the valuation date as of September 29, 1958, the date of filing the Complaint, is a denial to defendants of due process of law and the equal protection of the laws, and the taking of their property without just compensation, in violation of the Fourteenth Amendment to the Constitution of the United States and the law of the land	24
2. The Court's ruling permitting plaintiff to establish its asserted value of the property taken by one procedure but denying that same procedure to defendants, and then refusing to strike plaintiff's testimony is a denial to defendants of the equal protection of the laws in violation of the Fourteenth Amendment of the Constitution of the United States	25
3. The defendants were denied due process of law, the equal protection of the laws, and just compensation for the property taken, in violation of the Fourteenth Amendment of the Constitution of the United States, by the Court's ruling denying defendants' right to show and establish:	25
a. An agreement between plaintiff and defendants of the sum to be paid defendants for the property taken, from which plaintiff unjustifiably withdrew and instituted the actions to condemn	25
b. The amount expended in maintenance of the buildings as an element in establishing their good condition and resultant value	25

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c. The expense to defendants of moving and disposing of the contents .e buildings, which had contained a going business as well as residences 25

d. A fair compensation for the loss of the business, which was destroyed by the taking by plaintiff 25

4. The trial Court erred in refusing to set aside the verdict of the jury and grant a new trial, which verdict clearly was not only contrary to the weight of the evidence, but which has no direct evidence to sustain it 25, 26

5. The trial Court erred in charging the jury that they could make use of their view of the subject premises on June 25, 1959 (when the Coalport Area was devastated), in forming *their judgment of the testimony* and in determining their verdict.. 26

6. The Superior Court, Appellate Division, erred in affirming the judgment of the Law Division, and palpably based its decision and judgment on an erroneous concept of the evidence 26

7. The case presents important questions respecting standards for valuing property taken for public use, and there may be an apparent conflict in one of this Court's decisions respecting the same. ... 26

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

No.

MAURICE A. FINKLE, Executor of the last will and testament of ISAAC FINKLE, deceased, MAURICE A. FINKLE and KATHARYN H. FINKLE, his wife, NATHAN N. FINKLE and BESS P. FINKLE, his wife, LESTER J. FINKLE and BESSIE H. FINKLE, his wife, BESSIE E. LUBIN, MAURICE R. BLOCK, CAROLYN LAVINE and TALBERT LAVINE, her husband, S. LESTER BLOCK and RUTH BLOCK, his wife, *Petitioners*,

v.

HOUSING AUTHORITY OF THE CITY OF TRENTON, a body corporate and politic of the State of New Jersey, *Respondent*.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Your petitioners, Maurice A. Finkle, Executor of the last will and testament of Isaac Finkle, deceased, Maurice A. Finkle and Katharyn H. Finkle, his wife, Nathan N. Finkle and Bess P. Finkle, his wife, Lester

J. Finkle and Bessie H. Finkle, his wife, Bessie E. Lubin, Maurice R. Block, Carolyn Lavine and Talbert Lavine, her husband, S. Lester Block and Ruth Block, his wife, respectfully pray the issuance of a writ of certiorari to the Supreme Court of New Jersey to review the judgment and decision of that Court rendered on October 3, 1960, which judgment and decision denied to petitioners their petition to that Court for certification to the Superior Court of New Jersey, Appellate Division, to review the judgment of said Superior Court, Appellate Division, of July 5, 1960. Said judgment of the Appellate Division affirmed the judgment of the Superior Court of New Jersey, Law Division, rendered on July 2, 1959, in eminent domain proceedings to condemn two contiguous properties of petitioners for the asserted purpose of clearing an alleged blight area, referred to as the Coalport Area, in accordance with an Ordinance and other action of the City of Trenton, New Jersey, and of the Housing Authority of the City of Trenton, a body corporate and politic of the State of New Jersey, authorized to proceed in accordance therewith.

OPINIONS BELOW

No formal opinion was filed in the Superior Court, Law Division, but the Court's views and conclusions are expressed in the record of the argument of the motion for a new trial. (See Appendix for Appellants in the Superior Court, Appellate Division, at pages 220a to 229a, filed herewith.)

The opinion of the Appellate Division is printed in full in the Appendix to this petition at page 1a. It is not officially reported. The judgment is printed at page 8a.

No opinion was rendered by the Supreme Court, but the judgment and decision denying the petition for certification is reported in 33 N.J. Reports, at page 332. It is also printed in full in the Appendix to this petition at page 10a.

JURISDICTION

The judgment of the Supreme Court of New Jersey denying the petition for certification to review the judgment of the Superior Court of New Jersey, Appellate Jurisdiction, which judgment of the Appellate Division affirmed the judgment of the Superior Court, Law Division, is dated October 3, 1960.

By Order of December 30, 1960, the time within which petitioners herein may apply to this Court for a writ of certiorari to review the judgment of the Supreme Court of New Jersey was extended by Honorable William J. Brennan, Jr., Associate Justice of the Supreme Court of the United States, to and including February 28, 1961. Said Order is printed in the Appendix to this petition at page 11a. Each of the respective counsel for the respondent was promptly informed personally of the allowance of said Order, and a true and complete copy thereof was duly served on each pursuant to Rule 34(4), and Rule 33(1), on January 5, 1961, in the manner specified by Rule 4:51 and Rule 4:52 of Civil Practice in the Superior Court of New Jersey.

Jurisdiction to review this case upon writ of certiorari is conferred upon this Court by 28 United States Code, Sec. 1257 (3).